

D.N.J. LBR 7055-1 ENTRY OF DEFAULT AND DEFAULT JUDGMENT

(a) *Entry of Default* - To obtain entry of default pursuant to Fed. R. Civ. P. 55(a), the party moving for entry of default shall file with the Clerk of the Court an application requesting entry of default, together with a supporting affidavit listing all defaulting parties and alleging the following:

- (1) The party against whom default is sought has been properly served with a summons and a complaint.
- (2) The party has failed to plead or otherwise defend within the allowed time and that time has run.
- (3) The party has not requested or has not been granted an extension of time to plead or otherwise defend.

(b) *Entry of Default Judgment* - In addition to the filing of an application requesting entry of default, along with supporting affidavit, the party seeking the entry of a default judgment shall file with the Clerk of the Court an application for default judgment containing the following:

- (1) A request to enter default judgment.
- (2) An affidavit in support of default judgment, executed by an individual having personal knowledge of the facts set forth therein, which sets forth with specificity each element of at least one cause of action asserted in the initial pleading. The supporting affidavit must comply with 50 App. U.S.C. § 520 regarding defendant's military status. The affidavit must also allege that the defendant is not an infant or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared in the action.
- (3) Appropriate documentary evidence to support the allegations in the affidavit.
- (4) A proposed form of judgment.

(c) *Notice* - Notice shall be served in accordance with Fed. R. Civ. P. 55(b)(2).

(d) *Proof Hearing* - Chambers shall advise the party seeking entry of a default judgment of the time and date of a proof hearing, if required.

1999 Comment: This new Rule is intended to amplify and clarify the procedures to obtain the entry of default and default judgment pursuant to Fed. R. Civ. P. 55(a) and (b), respectively, made applicable to adversary proceedings pursuant to Fed. R. Bankr. P. 7055. Compliance with this new Rule should ease the burdens on both Chambers and the Clerk's office by reducing the number of nonconforming pleadings which must be returned to counsel with remedial instructions.

Subdivisions (a) and (b) detail the content of the pleadings and supporting documentation required to obtain the entry of default and a default judgment.

Subdivision (d) is intended to clarify that a default judgment may be entered upon the submission of pleadings and supporting documentation conforming to the provisions of the Rule, without a proof hearing, unless the Court notifies counsel that a proof hearing is required.

References: Fed. R. Bankr. P. 7054 Judgment; Costs.

Fed. R. Bankr. P. 7055 Default.

50 App. U.S.C. § 520. Default Judgments; Affidavits; Bonds; Attorneys For Persons in Service.